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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,550	08/28/2003	Tom Mayrose	TOE-P-03-001	7590

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

ED

Office Action Summary

Application No.

10/650,550

Applicant(s)

MAYROSE, TOM

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election of claims 1 and 4-20 in the reply filed on March 12, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Also, claims 11-15 drawn to a method of use had been previously withdrawn. Furthermore, applicant has elected the species of Group C: Fig. 4 which clearly shows two stoppers 12, 40 connected to the arm. Claim 16 is specifically directed to an embodiment wherein only one stopper is connected to the arm. Therefore, claim 16 and its dependents have been withdrawn. Claims 2, 3 and 11-20 have been withdrawn.

Claims 1 and 4-10 will be treated according to their merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwender (5535461).

Schwender discloses a sun bathing towel system capable of holding containers, the system is placed on a surface (liner member 16), a first stopper is defined by elements 58 and 60, a base (towel member 12) defines a perimeter, first end, second end, width, length, first edge, second edge, a top side, a bottom side, an interior and an exterior, the thickness of the base is uniform, a support element (stake 14 at left side of Fig. 1) is connected to the second end while the first stopper is connected to the first end.

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Re claim 7, the first stopper is the stake 14 at the left side of Fig. 1 and the first end is at the right side of Fig. 1, the support element is the loop formed at the right end of towel member 12.

Re claim 10, the auxiliary device is elbow 56 and rising support 54.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saylor (5308670) in view of Hough (D433660), Walton (6120876) and Taylor (2746571).

Saylor discloses a garage floor cover of rectilinear configuration with four raised sides forming a basin. Saylor is capable of holding containers. Saylor discloses all of the elements of the invention. However, Saylor fails to disclose the uniform thickness limitation from first edge to second edge (or across the width). Hough teaches a vehicle parking mat with only two opposed raised edges. Walton teaches a garage floor protector with three raised edges allowing drive through on a single side of a rectangular configuration. Taylor teaches one raised edge for a vehicle mat. It would have been obvious from the teachings of mats with less than four raised edges that the Saylor floor cover could be modified to remove the raised edges at the first and second opposed edges of the Saylor floor cover to provide the uniform thickness limitation as motivated by the lack of need to form a basin and the maintaining of the covers ability to capture drips of dirt, grease and oil from the vehicle undercarriage. The removal of the raised edges is also motivated by savings in material and manufacturing.

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Re claim 10, the auxiliary device is the portion of the base that wraps around the stopper.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwender in view of Davis (D161572).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saylor in view of Hough, Walton and Taylor as applied to claim 1 above, and further in view of Davis.

Schwender and Saylor fail to disclose the scale. Davis discloses a scale (indicia) on a mat. It would have been obvious to add the scale to the container holders to allow measuring of items placed on the container holders


Applicant's arguments with respect to claims 1 and 4-10 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3781

sjc